

## **REMARKS**

Claims 1, 2, 4, 7-11, 13, and 16-19 are outstanding. Pursuant to the Examiner's suggestions regarding the previously-identified allowable subject matter: Claims 3 and 12 have been canceled and rewritten in independent form as new Claim 17; Claims 5 and 14 have been canceled and rewritten in independent form as new Claim 18; and Claims 6 and 15 have been canceled and rewritten in independent form as new Claim 19. Allowance of Claims 17-19, at a minimum, is therefore respectfully requested. Claims 1 and 9 have been amended to further require the extruder die to be stationary. Claim 7, as well as the corresponding paragraph in the Specification, has been amended merely to correct what was clearly a typographical error: the term "parallel" rather than "series" should have been used, as is clearly understood in reference to Figure 7. Reconsideration and allowance of Claims 1, 2, 4, 7-11, 13, and 16 are also respectfully requested in light of the proposed amendments and arguments.

### **Claim Rejections – 35 U.S.C. § 102**

With regard to Claims 1-2, 4, 8-11, 13, and 16, the Office Action states:

Regarding claims 1 and 4: Hentschel '260 (US Pat. 5,266,260) teaches the claimed extrusion process comprising a step of applying a resistance or hindering force opposite to the direction of extrusion (eg. friction) to an extrudate downstream of the point wherein the extrudate wherein the extrudate is at a temperature that allows plastic deformation and sagging (1:45-50) in a containment vessel (1:35-2:10; 4:55-65; 5:5-50; and Fig. 1); and forming the extrudate into a coil (Figs. 1 and 3). . . .

Regarding claims 2 and 8: Hentschel '260 also teaches that: a tubular containment device which is generally axially aligned to the extrudate (Fig. 1). . . .

Claims 9-11, 13, 16 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Hentschel (US Pat. 5,266,260). . . .

Regarding claims 9-10, 13: Hentschel '260 teaches the claimed extrusion process comprising a step of: applying a resistance or hindering force opposite to the direction of extrusion (eg. friction)

to an extrudate downstream of the point wherein the extrudate is at a temperature that allows plastic deformation and sagging . . . in a containment vessel . . . and forming the extrudate into a coil. . . .

Regarding claims 11 and 16: Hentschel '260 also teaches that: a tubular containment device which is generally axially aligned to the extrudate (Fig. 1). . . .

Applicant respectfully traverses the rejection of Claims 1-2, 4, 8-11, 13, and 16. As discussed below, Hentschel fails to teach each and every element of the rejected claims as amended.

Such rejection under §102 for anticipation requires that the single reference teach each and every element or step of the rejected claim. *See Atlas Powder v. E.I. DuPont*, 750 F.2d 1569 (224 USPQ 409) (Fed. Cir. 1984); *See also* MPEP § 2131.01 (“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference”). Examiner’s rejections under §102 fail to meet this test.

Alternatively, to support a rejection under §103, as stated in Section 706.02(j) of the MPEP, “there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.” Examiner’s rejections under §103 fail to meet this test.

Regarding Claims 1-2, 4, 8-11, 13, and 16, the Applicant has amended the claims to further require the extrudate to pass through a stationary die orifice. Thus, the claimed method requires a non-rotating die, in direct contrast to Hentschel’s rotating die. Hentschel fails to disclose a method for making a spiral-shaped extrudate using a stationary (i.e. non-rotating) die, as is required in Applicant’s claims. Because Hentschel fails to teach each and every element of the rejected claims, Applicant respectfully requests that the rejections under §102 be withdrawn.

Furthermore, there is no suggestion in Hentschel of altering the method disclosed therein to instead use a stationary (non-rotating) die. One skilled in the art would not have been motivated to modify Hentschel's rotating-die method to arrive at Applicant's stationary-die method. As summarized in Applicant's Background section of the Specification at page 5, lines 9-13, "Another prior art method for imparting twists or curls in the dough involves using an extruder with rotating nozzles. This process, however, is only viable when the extrudate retains a very pliable form. Further, extrusion by way of rotating nozzles typically, again, requires a greatly reduced throughput rate as compared with the relatively high volume production desirable with the prior art linear products." Applicant further notes on page 6, lines 8-11 of the Specification, "It can be easily understood that any prior art solution that requires the substantial reduction in the throughput of the extrudate, therefore, is not an acceptable alternative . . . ."

In view of the above arguments and the proposed amendments, Applicant respectfully submits that the rejection of Claims 1-2, 4, 8-11, 13, and 16 has been overcome. Accordingly, it is respectfully requested that Examiner withdraw all rejections of those claims.

#### **Claim Rejections – 35 U.S.C. § 103**

With regard to Claim 7, the Office Action states:

Regarding claim 7: Hentschel '260 teaches the claimed extrusion process comprising a step of: applying a resistance or hindering force opposite to the direction of extrusion (eg. friction) to an extrudate downstream of the point wherein the extrudate wherein the extrudate is at a temperature that allows plastic deformation and sagging . . . in a containment vessel . . . forming the extrudate into a coil . . . and a series of peripheral containment vessels (Fig. 1).

Hentschel '260 does not teaches a placing number of extruder dies in series. Nonetheless, Official Notice is given that having an extra die available for an extrusion apparatus is well known in the molding art.

This rejection is respectfully traversed. Hentschel fails to disclose or suggest the invention claimed in Claim 7. Section 706.02(j) of the MPEP states that “[t]o establish a *prima facie* case of obviousness . . . the prior art reference (or references when combined) must teach or suggest all the claim limitations.” Furthermore, as stated in Section 706.02(j) of the MPEP, “there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.”

Regarding Claim 7 as amended: Hentschel fails to disclose the Applicant’s method of Claim 1 (as amended to require a stationary die orifice) further comprising placing a number of extruder dies and corresponding peripheral containment vessels in parallel such that an extruder face can be attached to an exit end of the extruder dies. As the Examiner also noted, there is no mention or suggestion whatsoever in Hentschel of pairing multiple dies with multiple, corresponding containment vessels via an extruder face (as shown in Applicant’s Figure 7).

For the sake of argument, even if it were true that one of ordinary skill in the art would have found it obvious to have divided a simple extrudate flow stream into smaller product streams, the fact remains that it would not have been obvious to apply resistance to each stream of extrudate within its corresponding containment vessel in order to hinder its movement therethrough to produce a spiral puff extrudate. Nor would one skilled in the art have been motivated to combine Hentschel’s rotating, single die device with a stationary group of multiple, parallel containment vessels as shown in Applicant’s Figure 7. Thus, one skilled in the art would not have been motivated by the Hentschel reference to arrive at Applicant’s claimed invention.

In view of the above arguments and proposed amendments, Applicant respectfully submits that the rejection of Claim 7 has been overcome. Accordingly, it is respectfully requested that Examiner withdraw all Section 103 rejections.

### CONCLUSION

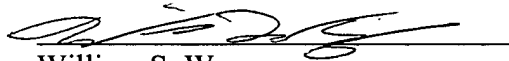
In light of the amendments and the arguments made by Applicant above, Applicant submits that all existing claims are now in a condition for allowance. Applicant respectfully requests that Examiner withdraw all restrictions and rejections with regard to the above-referenced claims in reliance on one or more of the grounds submitted by Applicant.

If there are any outstanding issues that the Examiner feels may be resolved by way of telephone conference, the Examiner is invited to call Colin Cahoon or William Wang at the below-listed telephone number if in the opinion of the examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

The Commissioner is hereby authorized to charge any payments that may be due or credit any overpayments to CARSTENS & CAHOON, L.L.P. Deposit Account 50-0392.

Respectfully submitted by:

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